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Letter dated 12 March 2003 from the Permanent Representative of Honduras to the United Nations addressed to the President of the Security Council

I have the honour to inform you that, on instructions from my Government, I am requesting that memorandum No. 017 DSM, dated 10 March 2003, from the Acting Minister for Foreign Affairs of the Republic of Honduras, Ambassador Aníbal Quiñones A., addressed to Her Excellency Ms. María Eugenia Brizuela de Ávila, Minister for Foreign Affairs of the Republic of El Salvador, concerning the Judgment issued by the International Court of Justice in the Honduras/El Salvador case (see annex), be circulated as a document of the Security Council.

(*Signed*) Manuel **Acosta Bonilla**
Ambassador
Permanent Representative

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Annex to the letter dated 12 March 2003 from the Permanent Representative of Honduras to the United Nations addressed to the President of the Security Council

Memorandum No. 017-DSM

Tegucigalpa, 10 March 2003

Madam,

I have the honour to acknowledge receipt of your note dated 11 March, i.e., tomorrow, attaching the letter which you sent to the Pan American Institute of Geography and History concerning the demarcation of the boundary delimited by the Chamber of the International Court of Justice on 11 September 1992.

With regard to the content of the aforesaid note, I am compelled to make the following points and observations:

1. Notwithstanding the fact that 10 years had elapsed since the Judgment delimiting the land boundary had been issued, El Salvador showed resistance to demarcating the said boundary during that entire time.

2. This forced the Government of Honduras to request the United Nations Security Council to take action and provide assistance, under Article 94, paragraph 2, of its Charter, for the enforcement of the Judgment.

3. In order to comply with the Judgment despite the fact that 10 days had elapsed, the presidents of the two republics in September 2002 called on the El Salvador-Honduras Special Demarcation Commission to carry out an accelerated programme of demarcation of all sectors of the boundary delimited by the 1992 Judgment, without exception.

4. Since El Salvador had for 10 days refused to demarcate the boundary delimited by the International Court of Justice, it was not until October 2002 that the reconnaissance visits prior to demarcation were initiated.

5. For the Government of Honduras, the small differences that had been noted up to October 2002 between the coordinates fixed by the International Court of Justice and the geographical accidents identified are natural and inherent in a delimitation process. It is for this reason that the Agreement to Establish the Special Demarcation Commission, which governs this activity, states in its final preambular paragraph that "demarcation is a technical implementation process that defines on the ground the terms of a previously established delimitation".

6. Domestic legal provisions cannot be invoked in order to evade compliance with a judgment of the International Court of Justice which, pursuant to Article 60 of its Statute, is "final and without appeal".

Her Excellency Ms. María Eugenia Brizuela de Ávila
Minister for Foreign Affairs
Republic of El Salvador

7. The Government of Honduras presumes, although the aforesaid note does not expressly say so, that the Government of El Salvador has submitted its request to the Pan American Institute of Geography and History, invoking article 25 of the General Peace Treaty, as that is the only treaty provision in force between the two countries which expressly confers competence on the said Institute to rule on demarcation issues affecting the common boundary between the two countries.

8. I must point out that within that legal framework your request is time-barred, since 30 days have not elapsed since the parties failed to reach agreement on the appointment of a third arbiter, as provided for in the aforesaid article 25.

(*Signed*) Aníbal **Quiñones A.**